IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

Crl. Misc. Application No. 312 of 2003

Raj Kumar Jain, S/o Late Shri Asha Ram Jain,
R/o 85/10 A, Nashvilla Road, Dehradun. ……. Applicant

Versus

State of Uttaranchal & others. …… Opposite Parties

Hon'ble P.C. Verma, A.C.J.

Heard Shri S. Dhulia, Advocate for the applicant and learned Government Advocate.

This application under section 482 CrPC has been filed by the applicant to quash the summoning order as well as the bailable warrant issued by the Special Judge. The applicant has further prayed for quashing of the charge sheet dated 1.12.2003 filed before the Special Court, Economic Offence i.e. Additional Sessions Judge II nd Fast Track Court, Nainital and further prayed to quash the entire proceedings against the applicant.

The applicant is an accused for an offence punishable under section 467/468/471/406/409/420/120B I.P.C. read with section 13 (C)(D) II of Prevention of Corruption Act. In the FIR the applicant is named and it is specifically mentioned that on account of the conspiracy of the petitioner with the other co-accused, the Irrigation Department has been put to loss. There are two FIRs against the applicant bearing crime case No. 23 of 1999 and crime case No. 73A of 1999. The applicant is named in FIR bearing crime No. 73A of 1999 and in the FIR bearing crime No. 23 of 1999 though the applicant is not named, but he was holding the office to siphon the Government's money. After filing of the FIR, investigation took place and the Investigation Officer has submitted a charge-sheet, which is on record. A perusal of the charge-sheet shows that the Investigating Officer has found the applicant to be in conspiracy with the other co-accused, therefore, the accused Sripal and Sunil could siphon out the Government's money. Government has suffered loss on account of conspiracy/collusion, which is termed by learned counsel for the applicant as only a negligence. In the charge-sheet it is stated that Shri Raj Kumar Jain did not act in accordance with the Department Rules, which enabled the accused No. 1 and 2 to

embezzle the amount mentioned in the FIR. No doubt section 482 of CrPC provides that where there is abuse of process of law, this court can quash the proceedings including charge-sheet and any other order. In the facts and circumstances of the case, I do not find that there is any abuse of process of law. Therefore, the petition is devoid of merit and is dismissed accordingly.

However, any observation made shall not effect the trial. Learned counsel for the applicant prays by way of mercy that the application of the bail of the applicant may be considered on 29th December 2003. I do not wish to give any such direction, but I direct the Special Judge concerned to decide the application within 3 days expeditiously.

(P.C. Verma, A.C.J.)

Dt. 24.12.2003
Gur